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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,387	07/14/2003	William C. Kress	66329/24815	5438
23380	7590	03/20/2008		
TUCKER ELLIS & WEST LLP 1150 HUNTINGTON BUILDING 925 EUCLID AVENUE CLEVELAND, OH 44115-1414			EXAMINER NGUYEN, MADELEINE ANH VINH	
			ART UNIT 2625	PAPER NUMBER
			NOTIFICATION DATE 03/20/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@tuckerellis.com  
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## Office Action Summary

**Application No.**

10/619,387

**Applicant(s)**

KRESS, WILLIAM C.

**Examiner**

Madeleine AV Nguyen

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 48-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 48-65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 48-65 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Objections*

2. Claim 58 is objected to because of the following informalities: an image output apparatus can not "comprising the steps of" in line 2. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 48-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson (US Patent No. 6,381,036).

Concerning claim 58, Olson discloses an image output apparatus (Fig.1) for color balancing an image output device having an image output engine (16), comprising Means (12) adapted for receiving electronic document data encoded in a multidimensional component color space (RGB or CMYK). The electronic document data defining an image (Fig.2) comprising a centralized image portion (24), including colorization highly sensitive to

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variations to relative intensities of component values, a plurality of selectable color regions (22) extending generally from the centralized image portion (24), wherein each color region corresponds to a bias color associated with the centralized image portion, and a plurality of selectable bias values associated with each color region, wherein bias values are reflected as being graduated relative to an associated color region and a radial distance from the centralized image portion; means (16) adapted for outputting a color image in accordance with the electronic document data; means (10) adapted for visually comparing the color image with a reference; means (14) adapted for receiving an adjustment parameter in accordance with at least one selected color region and associated bias value based on an output of the means adapted for visually comparing; and means adapted for adjusting image output engine colorization parameters based on the adjustment parameter.

Olson does not directly teach that the color regions extend radially from the centralized image portion. However, the candidate color set 20 with a center spot 24 has its color neighbors (patches 22) are circularly around the center spot (Fig. 2 or 5). It would have been obvious to one skilled in the art at the time was made to consider the color regions 22 are extending generally radially since they are located around the stating color 24 which is in the central of the circular ring of the color regions 22.

Concerning claims 64-64, Olson further teaches the image output apparatus of claim 58 an interface wherein commands are input via a control panel interface (claim 64); the adjustment parameter is selected from the group consisting of lighten, darken and no adjustment (claim 65).

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Claims 48 and 56-57 are method claims of apparatus claims 58, 64-65. Claims 48 and 56-57 are rejected for the same rationales set forth for claims 58, 64-65.

5. Claims 49-55 and 59-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson as applied to claim 58 above, and further in view of Allen (US Patent No. 6,535,307).

Concerning claims 59-63, Olson fails to teach that the reference image comprising a plurality of images, each image having a different background (claim 59); the plurality of images has one image with a light background (claim 60); the plurality of images has one image with a dark background (claim 61); the image with a light background is the same image as the image with the dark background (claim 62); the color image comprises a first image outputted with a light background and a first image with a dark background (claim 63). Allen discloses a visual sensor for detecting imaging parameters wherein the reference image comprising a plurality of images each having a different background from dark to light color (Figs. 3-4; Abstract; col. 10, line 18 – col. 11, line 45). It would have been obvious to one skilled in the art at the time the invention was made to combine the teaching of a reference image comprising a plurality of images having a variation of background from dark to light color in Allen to the reference image 24 in Olson since Olson also teaches that the center image 24 can have different variation of colors from dark to light (col. 4, line 57 – col. 5, line 34).

Claims 49-55 are method claims of apparatus claims 59-63. Claims 49-55 are rejected for the same rationales set forth for claims 59-63.

*Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

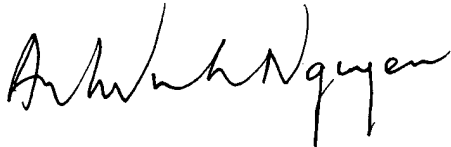
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madeleine AV Nguyen whose telephone number is 571 272-7466. The examiner can normally be reached on Monday-Friday 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on 571 272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Madeleine AV Nguyen', with a stylized, cursive script.

Madeleine AV Nguyen  
Primary Examiner  
Art Unit 2625

March 14, 2008